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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,021	08/16/2006	Dennis G. Griepentrog	1335.367	9304
23598	7590	03/25/2008		
BOYLE FREDRICKSON S.C.	EXAMINER			
840 North Plankinton Avenue	WHITE, RODNEY BARNETT			
MILWAUKEE, WI 53203				
			ART UNIT	PAPER NUMBER
			3636	
NOTIFICATION DATE	DELIVERY MODE			
03/25/2008	ELECTRONIC			

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@boylefred.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/598,021	<b>Applicant(s)</b> GRIEPENTROG, DENNIS G.
	<b>Examiner</b> Rodney B. White	<b>Art Unit</b> 3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 14 January 2008.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-5, 7, 9-12 and 14-20 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-5, 7, 9-12, and 14-20 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-4, 6-8, 12, and 16-19 rejected under 35 U.S.C. 103(a) as being unpatentable over Bujaryn (U.S. Patent No. 5,542,746) in view of Childress (U.S. Patent No. 2,296,705) and Loescher (U.S. Patent No. U.S. Patent No. 5,749,121).

Bujaryn teaches the structure substantially as claimed including a mobile desk adapted to be supported by a support surface such as a floor, comprising: a base including a front base member and a rear base member, and a central axial base member extending between and interconnecting the front base member and the rear base member, wherein each of the front and rear base members defines a pair of

spaced apart, outwardly facing ends located one on each side of the central base member, wherein the front and rear base members include rollers 1 that engage the support surface; an upwardly extending seat support member defining a lower end secured to the base; an upwardly extending worksurface support member defining a lower end secured to the base; a seat 7 secured to and supported above the base by the seat support member; and a worksurface 16 secured to and supported above the base by the worksurface support member, wherein the seat is secured to the seat support member via an adjustable height seat mounting arrangement for varying the height of the seat relative to the support surface, and wherein the worksurface is secured to the worksurface support member via an adjustable height worksurface mounting arrangement for varying the height of the worksurface relative to the support surface, wherein the adjustable height seat mounting arrangement comprises a cylinder assembly including a cylinder and an extendible and retractable rod 6b or 6c, and further comprising an actuator secured to an underside defined by the seat for providing selective extension and retraction of the rod to adjust the height of the seat (See Figures 1, 7, 9-10, 23, and 26), wherein the front base member, the rear base member and the central axial base member lie in a common plane oriented parallel to the support surface, wherein the worksurface support member comprises a tubular member defining an internal passage, and wherein the worksurface is mounted to the worksurface support member via a stem depending from the worksurface and received within the internal passage of the worksurface support member, and wherein the worksurface height adjustment arrangement includes a variable position engagement

arrangement interposed between the stem and the worksurface support member, wherein the front and rear transverse base members define spaced apart ends, and wherein the roller arrangement comprises a pair of front casters mounted one to each end of the front transverse base member, and a pair of rear casters mounted one to each end of the rear transverse base member, wherein each caster includes a wheel but does not teach wherein the rollers are incorporated in end-type casters, each of which comprises a tubular body member positioned over one of the outwardly facing ends of one of the base members, and a roller member carried by the tubular body member. However, Childress and Loescher both teach the concept of rollers incorporated in end-type casters, each of which comprises a tubular body member positioned over one of the outwardly facing ends of one of the base members, and a roller member carried by the tubular body member to be old. It would have been obvious and well within the level of ordinary skill in the art to modify the mobile desk, as taught by Bujaryn, to include a tubular base member in which end-type casters, with a tubular body member are positioned over one of the outwardly facing ends of one of the base members, as taught by Childress and Loescher, since such a shape or whether or not the base is tubular, is a design choice dependent on the manufacturer and the consumer and since one is an alternative conventional; method of attaching casters on a mobile structure that performs the same function and performs just as well as the other.

Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bujaryn (U.S. Patent No. 5,542,746) in view of Childress (U.S. Patent No. 2,296,705)

and Loescher (U.S. Patent No. U.S. Patent No. 5,749,121) as applied to claims 1-2 above, and further in view of Onishi (U.S. Patent No. 6,776,452 B2).

Bujaryn in view of Childress and Loescher teaches the structure substantially as claimed including a mobile desk adapted to be supported by a support surface such as a floor, comprising: a base including a front base member and a rear base member, wherein the front and rear base members include rollers 1 that engage the support surface; an upwardly extending seat support member defining a lower end secured to the base; an upwardly extending worksurface support member defining a lower end secured to the base; a seat 7 secured to and supported above the base by the seat support member; and a worksurface 16 secured to and supported above the base by the worksurface support member, wherein the seat is secured to the seat support member via an adjustable height seat mounting arrangement for varying the height of the seat relative to the support surface, and wherein the worksurface is secured to the worksurface support member via an adjustable height worksurface mounting arrangement for varying the height of the worksurface relative to the support surface, but it is not clear if actuator rods 6b and 6c are the same or function the same in adjusting the height of the seat as the actuator rod of the present invention. However, Onishi teaches an adjustable height seat mounting arrangement comprises a cylinder assembly including a cylinder and an extendible and retractable rod (not labeled), and further comprising an actuator (not labeled) secured to an underside defined by the seat for providing selective extension and retraction of the rod to adjust the height of the seat (See Figures 2 and 5). It would have been obvious and well within the level of ordinary

skill in the art to modify the desk, as taught by Bujaryn in view of Childress and Loescher, to include an actuator rod, as taught by Onishi, since one actuator is an alternative convention method of adjusting the seat as the other.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bujaryn (U.S. Patent No. 5,542,746) in view of Childress (U.S. Patent No. 2,296,705) and Loescher (U.S. Patent No. U.S. Patent No. 5,749,121) as applied to claims 1-2 above, and further in view of Callegari (U.S. Patent No. 6,269,578 B1).

Bujaryn in view of Childress and Loescher teaches the structure substantially as claimed including the worksurface support comprises an upstanding tubular member, and wherein the adjustable height worksurface mounting arrangement comprises a worksurface support stem depending from the worksurface and received within the upstanding tubular member but does not teach that the stem including a series of vertically spaced openings, and an engagement member adapted for engagement with the upstanding tubular member and with a selected one of the vertically spaced openings for positioning the worksurface at a selected height relative to the support surface. However, Callegari teaches a worksurface support comprises an upstanding tubular member, and wherein the adjustable height worksurface mounting arrangement comprises a worksurface support stem depending from the worksurface and received within the upstanding tubular member but does not teach that the stem including a series of vertically spaced openings, and an engagement member adapted for engagement with the upstanding tubular member and with a selected one of the

vertically spaced openings for positioning the worksurface at a selected height relative to the support . It would have been obvious and well within the level of ordinary skill in the art to modify the desk, as taught by Bujaryn in view of Childress and Loescher, to include a height adjustment mechanism for the worksurface, as taught by Callegari, since the vertically spaced openings, and an engagement member adapted for engagement with the upstanding tubular member and with a selected one of the vertically spaced openings would be an easier method of adjusting the worksurface.

Claims 9 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bujaryn (U.S. Patent No. 5,542,746) in view of Childress (U.S. Patent No. 2,296,705) and Loescher (U.S. Patent No. U.S. Patent No. 5,749,121 as applied to claims 1 and 19 above, and further in view of Raftery (U.S. Patent No. 4,700,430).

Bujaryn teaches the structure substantially but does not teach that the casters are lockable. However, Raftery teaches lockable casters which rotation of the rollers is prevented due to the weight of the occupant. It would have been obvious and well within the level of ordinary skill in the art to modify the desk, as taught by Bujaryn in view of Childress ad Loescher, to include a lockable casters, as taught by Raftery, since the lockable casters would allow the casters to lock and prevent movement when desired or if needed.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Seeberger, Segal, Rabelos, Daniels, Yang, and Cherukuri teach lockable casters.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney B. White whose telephone number is (571) 272-6863. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on (571) 272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Rodney B. White/  
Primary Examiner  
Art Unit 3636  
March 18, 2008